

June 13, 2005

Norman Sato  
Chief Deputy City Attorney  
City of San Jose  
151 West Mission Street  
San Jose, CA 95110

**Re: Your Request for Informal Assistance**  
**Our File No. I-05-105**

Dear Mr. Sato:

This letter is in response to your request on behalf of the City of San Jose for informal assistance regarding the campaign provisions of the Political Reform Act (the "Act")<sup>1</sup> as they relate to the city's campaign contribution ordinance. Because the Commission's authority is limited to the provisions of the Act, nothing in this letter should be construed as an interpretation of the city's ordinance or other laws.

### **QUESTION AND DISCUSSION**

The City of San Jose has enacted a campaign contribution ordinance which is generally subject to the Act's definitions of the terms "contribution" and "expenditure." (Sections 82015 and 82025. Also see regulations 18215 and 18225.) Specifically, you ask about employee services contributed to a candidate or committee, and the exception in regulation 18423 for services provided under a uniform policy allowing employees to engage in political activities on compensated time. Subdivision (a) of regulation 18423 provides:

“(a) The payment of salary, reimbursement for  
personal expenses, or other compensation by an employer to an

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c), copy enclosed.)

employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution, as defined in Government Code Section 82015 and 2 Cal. Adm. Code Section 18215, or an expenditure, as defined in Government Code Section 82025 and 2 Cal. Adm. Code Section 18225, by the employer if:

(1) The employee renders services at the request or direction of the employer; or

(2) The employee, with consent of the employer, is relieved of any normal working responsibilities related to his employment in order to render the personal services, unless the employee engages in political activity on bona fide, although compensable, vacation time *or pursuant to a uniform policy allowing employees to engage in political activity. ...* (Emphasis added.)

You have asked whether the “uniform policy” exception would apply in circumstances where employees are allowed to engage in political activities on compensated time, but only in support of candidates endorsed by their employer or its political action committee, or whose election may result in economic benefit to the employer. The Commission does not provide written advice in response to hypothetical questions. However, generally, we believe that a “uniform policy” means that all employees are allowed to spend some amount of their compensable time on political activities of their own choosing. Any limitation imposed by the employer would appear to result in a contribution under regulation 18423.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
General Counsel

By: Carla Wardlow  
Division Chief  
Technical Assistance Division

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